



## **RESOLUTION NO. \_\_\_\_\_**

### **OF THE BOARD OF SUPERVISORS OF THE COUNTY OF EL DORADO**

#### **RESOLUTION OF NECESSITY**

**WHEREAS**, the U.S. Highway 50/Missouri Flat Road Interchange Project (“Project”) is located in El Dorado Hills, California, in western El Dorado County;

**WHEREAS**, the Project is necessary to: (1) increase the U.S. Highway 50/Missouri Flat Road interchange capacity to solve existing operational deficiencies and to accommodate traffic associated with planned growth in the County; (2) address existing safety problems associated with the interchange; and (3) meet Caltrans’ planning and design requirements for those portions of the project within State right of way;

**WHEREAS**, the Project will involve reconstruction of the Missouri Flat Road interchange on U.S. 50, realignment and reconstruction of Missouri Flat Road, seismic retrofitting and widening of the eastbound and westbound Weber Creek bridges, reconstruction of Perks Court, reconstruction of Mother Lode Drive at the intersection with Missouri Flat road, reconstruction of the Missouri Flat Road/Prospector’s Plaza Drive intersection, reconstruction of the Mother Lode Drive/Greenleaf Drive intersection, and related improvements;

**WHEREAS**, on August 31, 2004, the Board of Supervisors certified the Final Environmental Impact Report/Environmental Assessment (“FEIR/EA”) for the Project, and it has been determined that the requirements of the California Environmental Quality Act have been satisfied;

**WHEREAS**, as a necessary part of the Project, portions of 3945 Missouri Flat Road, identified as Assessor’s Parcel Number 327-130-35, El Dorado County, owned by Real Estate Holdings II, LLC (“REH”) and occupied by Jack in the Box, Inc. (“JIB”), are best suitable and necessary for the Project, will result in a maximum benefit to the Project, at the most reasonable cost, and with the least interference as possible to private property rights, and that there is no other reasonable, permissible location configured for the required Project;

**WHEREAS**, the property described and depicted in Exhibits A-1 and A-2 attached

hereto and incorporated by reference will be acquired in fee as right of way to accommodate the widening of Missouri Flat Road (the "ROW Parcel"); and the property described and depicted in Exhibits B-1, B-2 and B-3 as "Portion 1" and "Portion 2", will be acquired as temporary construction easements (the "TCE Parcels");

**WHEREAS**, it is desirable and necessary for the El Dorado County Department of Transportation to acquire the ROW Parcel and TCE Parcels property described and depicted in Exhibits A-1, A-2, B-1, B-2 and B-3, respectively, for the purpose of, *inter alia*, constructing the Project; and

**WHEREAS**, the appraisal and offer required under Government code section 7267.2 has been made to the record owner of the subject property through its authorized officers and representatives, and reasonable efforts by the County have been made to conclude negotiations in accordance with the requirements of Government code section 7267.2;

**WHEREAS**, the County of El Dorado is a political subdivision of the State of California and is vested with the power of eminent domain to acquire real property necessary to carry out the powers and functions of the County by virtue of article 1, section 19 of the Constitution of the State of California; section 25350.5 of the California Government Code; and sections 1240.050, 1240.110, 1240.120, 1240.125, 1240.150 and 1240.410 of the California Code of Civil Procedure ; and

**WHEREAS**, the property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that Department of Transportation's ("DOT") use of the property will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future, or, in the alternative, for a more necessary public use under Code of Civil Procedure section 1240.610 in that DOT's use of the property is a more necessary public use than the use to which the property is appropriated; and

**WHEREAS**, REH and JIB have executed an Agreement For Possession and Use ("APU") granting the County the irrevocable right to possession and use of the ROW Parcel and TCE Parcels, together with a Grant of Temporary Easement and Agreement for Grant of Temporary Easement and Relocation of Signage (collectively, the "APU and Easement Documents").

**WHEREAS**, under the APU, REH and JIB agreed to waive the following: (1) notice of the Resolution of Necessity hearing and the adoption of the Resolution; (2) the right to object to

the filing of an eminent domain action; and (3) the right to challenge the County's right to take in an eminent domain action; and further agreed that the only issue in the eminent domain proceeding shall be the amount of just compensation for the ROW Parcel and TCE Parcels.

**WHEREAS**, notwithstanding the waiver of the notices and rights under the APU as described above, written notice of the intent to adopt this Resolution of Necessity has been provided to the owner of record.

**WHEREAS**, a duly noticed hearing was held on July 17, 2007, in accordance therewith;

**NOW, THEREFORE, BE IT RESOLVED THAT** the Board of Supervisors of the County of El Dorado hereby finds:

1. The public interest and necessity require the construction of the U.S. Highway 50/Missouri Flat Road Interchange Project, to address the safety, existing deficiencies, and transportation concerns identified by the Project;
2. The construction of the Project and related improvements is planned and located in the manner that will be most compatible with the greatest public good and the least private injury;
3. The ROW Parcel and TCE Parcels, as described and depicted in Exhibits A-1, A-2, B-1, B-2 and B-3, are best suitable and necessary for the Project, will result in a maximum benefit to the Project, at the most reasonable cost, and with the least interference as possible to private property rights, and that there is no other reasonable, permissible location configured for the required Project;
4. The offer required by Government Code section 7267.2 has been made to the owner of record of the subject property;
5. The ROW Parcel described and depicted in Exhibits A-1 and A-2 attached hereto and incorporated by reference is to be acquired in fee and used to accommodate the widening of Missouri Flat Road;
6. Temporary construction easements are to be acquired on the TCE Parcels described and depicted in Exhibits B-1, B-2 and B-3 as "Portion 1" and "Portion 2", which shall allow the County or its agents, employees and contractors the right of ingress and egress as may be reasonably necessary for construction purposes, inclusive of such repairs, replacements and removals as may be from time to time required as well as for other purposes incidental for construction of the Project, including any staging, stockpiling, and

parking of construction vehicles or equipment, subject to the terms and conditions of the APU and Easement Documents;

7. The subject property is being acquired for a compatible use under Code of Civil Procedure section 1240.510 in that DOT's use of the Parcels will not interfere with or impair the continued public use as it now exists or may reasonably be expected to exist in the future, or, in the alternative, for a more necessary public use under Code of Civil Procedure section 1240.610 in that DOT's use of the Parcels is a more necessary public use than the use to which the property is appropriated;

**BE IT FURTHER RESOLVED** that the County Counsel is hereby authorized to proceed with the commencement of an action in eminent domain pursuant to the Eminent Domain Law set forth in the Code of Civil Procedure, commencing with Section 1230.010, et seq., to acquire the real property and property interests described in the Exhibits A-1, A-2, B-1, B-2 and B-3 attached hereto.

**PASSED AND ADOPTED** by the Board of Supervisors of the County of El Dorado at a regular meeting of said Board, held on the \_\_\_\_\_ day of \_\_\_\_\_, 2007, by the following vote of said Board:

**ATTEST**  
Cindy Keck  
Clerk of the Board of Supervisors

**Ayes:**  
**Noes:**  
**Absent:**

By \_\_\_\_\_

Deputy Clerk

\_\_\_\_\_  
Helen K. Baumann, Chairman of the Board  
Board of Supervisors

**I CERTIFY THAT:**  
**THE FOREGOING INSTRUMENT IS A CORRECT COPY OF THE ORIGINAL ON FILE IN THIS OFFICE.**

**DATE** \_\_\_\_\_

**ATTEST:** Cindy Keck, Clerk of the Board of Supervisors of the County of El Dorado, State of California

By \_\_\_\_\_  
Deputy Clerk